

### REMARKS

The above identified patent application has been amended and reconsideration and reexamination are hereby requested

On April 11, 2002 the examiner and the examiner's supervising examiner, Ms. Wynn Coggins, had a telephone interview with the applicant's representatives. On the basis of those discussions, applicant has amended claims 1, 11 and 21 to more particularly point out and distinctly claim the invention. We acknowledge Examiner's withdrawal of Chan as a prior art reference during the telephone interview.

The Examiner rejected claim 1 and claims under 35 U.S.C. §102 (e), as being anticipated by Rickard.

Applicant's claims are distinct from Rickard. For example, in claim 1, Rickard neither describes nor suggests posting an allocation message to market maker participants to communicate the market maker participants' expected allocations of the imbalance for execution by the market maker participants at an initial opening of the market on the side of the imbalance in the event that the imbalance exists at the opening.

Rickard mentions sending messages after the initial opening (column 7 lines 14-18). According to Rickard however, the messages are optional (i.e., can) and are intended to assist determining post-opening desired target positions. These messages do not teach allocation messages to communicate expected allocations of the imbalance at an initial opening of the market in the event that the imbalance exists at the opening.

Rickard assigns a residual balance of any imbalance of orders to market makers based on an algorithm that minimizes a cumulative measure of deviation between post-opening target and current positions. Nowhere in Rickard is expressed the teachings of posting an allocation message to market maker participants to communicate an expected allocation of the imbalance for execution at an initial opening in the event that the imbalance exists at the opening. Rickard merely assigns an allocation whereas claim 1 calls for posting a message that indicates an expected allocation.

Examiner also rejected claim 11 and 21. These claims are distinct over Rickard based generally on the argument above and for the reasons of record. These claims should also be allowable.

Dependent claims 2-10, 26 and 27, which depend directly or indirectly on claim 1, claims 12-20, 28, and 29, which depend directly or indirectly on claim 11, and claims 22-25, 30 and 31, which depend directly or indirectly on claim 21 should also be allowed. These claims add additional distinct features and are distinct at least for the reasons discussed in their respective base claims and for the reasons of record.

Applicants have added new claim 32. Claim 32 recites over a first plurality of intervals of time prior to a market opening, posting a first corresponding plurality of allocation messages to market maker participants to communicate expected allocations ... in the event that the imbalance exists at the opening and over a second plurality of intervals of time prior to the market opening, disseminating a second corresponding plurality of market imbalance messages to the public. Rickard neither describes nor suggests these elements. Rickard does not have any teachings that would suggest the desirability of disseminating multiple messages. Also, Rickard does not suggest that these multiple messages are disseminated periodically.

Claims 33 and 34 which recite that an interval of time between each allocation message decreases as the time to the opening decreases (claim 33) and an interval of time between each market imbalance message to the public decreases as the time to the opening decreases (claim 34) are further distinct.

Attached is a marked-up version of the changes being made by the current amendment.

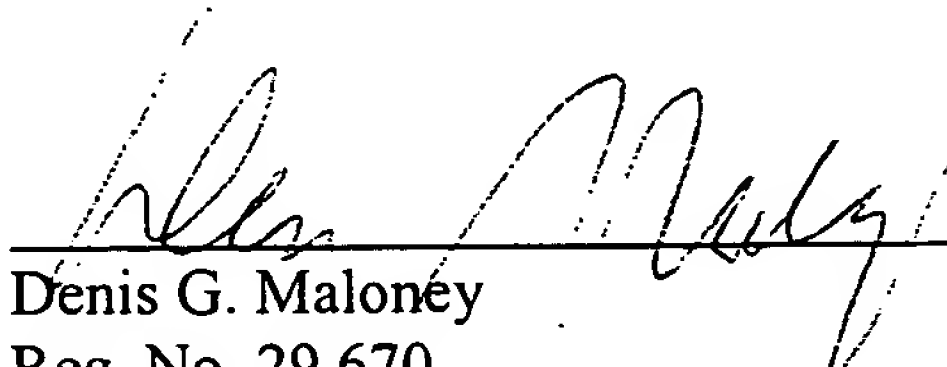
Applicant : Peter B. Madoff  
Serial No. : 09/392,018  
Filed : September 8, 1999  
Page : 6

Atte 's Docket No.: 10575-004001

Applicant asks that all claims be allowed. Enclosed is a \$120 check for excess claim fees and a \$110 check for the Petition for Extension of Time fee. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 4/22/02

  
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**Version with markings to show changes made**

**In the claims:**

Claims 1, 11 and 21 have been amended as follows:

1. (Amended Twice) A method of determining an opening price for a product traded in a trading system, the method executed over a distributed network computer system, said method comprising:

receiving orders from customers for the product, the orders specifying a quantity and whether the order is a buy or sell order;

determining an imbalance condition between received buy orders and received sell orders for the product; and

posting an allocation message to market maker participants to communicate [an] the market maker participants' expected allocations of the imbalance for execution by the market maker participants at an initial opening of the market on the side of the imbalance in the event that the imbalance exists at the opening.

11. (Amended) A computer program product for determining an opening price for a product said computer program product residing on a computer readable medium comprising instructions for causing a computer to:

receive orders for a product, each order specifying a quantity and whether the order is a buy or sell order at a market price;

determine an imbalance condition between received buy orders and received sell orders; and

post an allocation message to market maker participants to communicate [an] the market maker participants' expected allocations of an imbalance for execution by the market maker participants at an initial opening of the market in the event that the imbalance exists at the opening.

21. (Amended) A system for determining an opening price for products traded over a distributed, networked computer system, said system comprising:

a plurality of workstations for entering orders for financial products into the distributed, networked computer system, said orders specifying a quantity of the financial product;

a server computer coupled to the workstations for entering the orders, said server computer executing a server process that determines an opening price for the product, the server process comprising instructions that cause the server to:

receive orders for the product, each order specifying a quantity and whether the order is a buy or sell order at a market price;

determine an imbalance condition between received buy orders and received sell orders; and

post an allocation message to market maker participants to communicate [an] the market maker participants' expected allocations of the imbalance for execution by the market maker participants at an initial opening of the market in the event that the imbalance exists at the opening.